IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

FAO.No. 287 of 2006()

APPELLANTS/PETITIONERS/PLAINTIFFS.
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1. STATE OF KERALA, REPRESENTED BY
   THE CHIEF SECRETARY.

2. THE DIRECTOR OF FISHERIES,
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER MS.K.R.DEEPA

RESPONDENTS: COUNTER PETITIONERS/DEFENDANTS.
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1. S.NARASIMHAMOORTHY RAO,
   RTD.DIRECTOR OF FISHERIES, MANEZER COMPOUND,
   PALLURUTHY, COCHIN-6. (DIED).

2. V.T.THOMAS (RTD.JOINT DIRECTOR OF
   FISHERIES), VETTIKKAT, NEEMDOOR P.O.

3. P.UNNIKRISHNAN NAIR (RTD.JOINT DIRECTOR
   OF FISHERIES) T.C.25/1898, THAMPANOOR,
   THIRUVANANTHAPURAM.

BY ADV. SRI.R.PADMARAJ
ADV. JOSEPH KODIANTHARA

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON 13/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & K.T. SANKARAN, JJ.

F.A.O. NO. 287 OF 2006

Dated this the 13th day of April, 2007

JUDGMENT

Sankaran, J.

This appeal is filed by the plaintiffs in the suit, O.S.No.170 of 2001, on the file of the I Additional Sub Court, Thiruvananthapuram, challenging the order passed by the court below dismissing the application for condonation of delay in filing the application for setting aside the abatement caused due to the non-impleadment of the legal representatives of the first defendant within the period of limitation. It is submitted by the learned Government Pleader that no notice was issued to the legal representatives sought to be impleaded and the court below was not justified in dismissing the application.

2. Learned counsel for the respondents submitted that the suit itself was dismissed for default on 11.1.2007 and I.A.No.990 of 2007 was filed by the

plaintiffs for restoration of the suit. The application for restoration of the suit is posted to 20.6.2007.

In the facts and circumstances of the case, this appeal is closed with liberty to the appellants to move the appeal for re-hearing, in case the suit is restored to file.

(KURIAN JOSEPH)
Judge

(K.T.SANKARAN)
Judge

ahz/